

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT  
FOR SUFFOLK COUNTY  
NO. BD-

In the Matter of

RICHARD J. REILLY, JR. ESQ.,

Respondent

**PETITION FOR TEMPORARY SUSPENSION**

Pursuant to S.J.C. Rule 4:01, § 12A, bar counsel petitions this Honorable Court for an order forthwith temporarily suspending Richard J. Reilly, Jr., Esq. from the practice of law in the Commonwealth pending the institution and conclusion of disciplinary proceedings before the Board of Bar Overseers. In support of this petition, bar counsel refers to the accompanying Affidavit of Robert M. Daniszewski and further states:

1. The respondent, Richard J. Reilly, Jr., was admitted to the bar of the Commonwealth on December 15, 1999, and currently maintains a registered office address of P.O. Box 33, East Sandwich, Massachusetts, 02537.
2. The respondent is currently the subject of disciplinary proceedings pursuant to SJC Rule 4:01, Section 8(5). In that matter, Bar Counsel v. Reilly, File Nos. C5-15-0024 and C5-17-0006, a hearing committee on July 12, 2018 recommended that the respondent be suspended for a term of two years for intentional misuse of clients' expense advances and other misconduct in connection with his representation of numerous owners of timeshare units on Cape Cod. Bar counsel has filed an appeal to the Board of Bar Overseers seeking a longer suspension than the two years recommended by the hearing committee. The Board is unlikely to issue a decision on that appeal prior to the end of 2018. That decision may also be appealed to a single justice of this Court. Even if the Board's decision is not appealed, the Board will need to

file an Information with this Court before an order of suspension can issue and go into effect. Consequently, although the respondent has not appealed the committee's recommended two-year suspension, he currently stands to remain an active member of the bar for many months to come.

3. On or about July 18, 2018, bar counsel received a formal request for investigation of the respondent from James E. Ryan and Martha E. Ryan of Albany, New York. The Ryans were owners of a timeshare unit at a resort in Dennisport known as "The Soundings." According to their complaint to bar counsel, the Ryans retained the respondent during the summer of 2009 to pursue a breach-of-contract claim against the resort developer.

4. As of the time bar counsel received the Ryans' request for investigation, their status as clients of the respondent had already been established in the pending disciplinary proceedings against the respondent. In particular, the hearing committee received in evidence a 2012 settlement agreement (Exh. 11) showing that the Ryans were to receive a cash payment of \$31,295 as their share of a total \$161,675 settlement between the Soundings owner and various owners of timeshare units who were being jointly represented by the respondent. The respondent signed the settlement agreement as attorney for these settling timeshare owners, as well as in his personal capacity.

5. At the hearing, the respondent testified that, following execution of the settlement agreement and his receipt of the aggregate settlement amount, he disbursed to the Ryans and the other individual owners the amounts due them as set forth in Exhibit 11.

6. However, according to the Ryans' complaint to bar counsel, not only did they not receive any funds from the respondent in connection with the settlement of the Soundings matter, they were never aware that any such settlement had been realized.

7. The Ryans' allegation that they never received settlement funds in connection with the Soundings matter is corroborated by the respondent's bank records. Bar counsel has examined records of the respondent's IOLTA and operating accounts (both with Santander Bank) dating back to before the time of the settlement referenced in Exhibit 11. Although those records confirm that the respondent received the aggregate settlement amount from defendant's counsel (as he acknowledged in his testimony before the committee) and deposited those funds into his IOLTA, bar counsel finds no evidence in the bank records of any subsequent disbursement of \$31,295 (or any lesser amount) to the Ryans. Moreover, bar counsel has found no evidence that settlement funds earmarked for one of the other owners named in the settlement document, Barbara Owen, were ever disbursed to Ms. Owen.

8. Pursuant to Rule 2.6 of the Rules of the Board of Bar Overseers, bar counsel furnished a copy of the Ryans' request for investigation to the respondent by letter dated July 19, 2018, sent by first-class mail to the respondent's registered office address, and requested that he provide a written response to the complaint within twenty days. In such letter, bar counsel expressly alerted the respondent to the possibility that she would seek a temporary suspension under SJC Rule 4:01, Section 12A, if the respondent were unable to demonstrate that the settlement funds in question had been properly disbursed to the affected clients. Despite such warning and the stated twenty-day deadline, the respondent has failed to respond in any way to the July 19, 2018, letter.

9. Finally, on September 4, 2018, bar counsel received a copy of an overdraft notice from Santander in regard to the respondent's IOLTA. The notice was triggered by a \$5,000 check that was presented to the bank for payment at a time when the balance in the IOLTA was less than \$800.

10. Based on all of the foregoing facts, as verified by the accompanying Affidavit of Robert M. Daniszewski, there is substantial evidence upon which to conclude that the respondent has committed misconduct including conversion of client funds totaling at least \$31,295 and poses a threat of substantial harm to clients or prospective clients. Therefore, the respondent should be ordered to show cause why he should not be immediately suspended from the practice of law pursuant to SJC Rule 4:01, Section 12A.

WHEREFORE, the Bar Counsel requests that this Honorable Court:

- A. Order that RICHARD J. REILLY, JR. appear before this Court to show cause why he should not be immediately temporarily suspended from the practice of law;
- B. After hearing, enter an order immediately temporarily suspending RICHARD J. REILLY, JR. from the practice of law pending final disposition of any disciplinary proceedings to be commenced by the bar counsel; and
- C. Enter such further Orders as this Court deems just and appropriate.

Constance V. Vecchione  
Bar Counsel

By

\_\_\_\_\_  
Robert M. Daniszewski  
Assistant Bar Counsel  
B.B.O. No. 556388  
99 High Street  
Boston, MA 02110  
(617) 728-8740

September \_\_\_, 2018

Certificate of Service

I hereby certify that I have this day served the foregoing Petition for Temporary Suspension by mailing a copy by first class mail, postage prepaid, to P.O. Box 33, East Sandwich, MA 02537 (respondent's registered office address); and to 14 Quiet Street, East Sandwich, MA 02537 (respondent's registered home address); and by sending a copy thereof via email to the respondent at his stated email address of richard@rreillylaw.com and mycapeattorney@gmail.com.

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Robert M. Daniszewski  
Assistant Bar Counsel  
B.B.O. # 556388

September \_\_\_, 2018